

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JASON GOODMAN,	:
	:
Plaintiff,	: No. 21 Civ. 10878-AT-JLC
	:
-against-	: <i>Pro Se</i> Case
	:
CHRISTOPHER BOUZY, et al.,	:
	:
Defendants.	:
	:
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**DECLARATION OF SETH D. BERLIN  
IN OPPOSITION TO MOTION FOR SANCTIONS**

I, Seth D. Berlin, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Senior Counsel with the law firm of Ballard Spahr LLP, which represents Defendants Christopher Bouzy (“Bouzy”) and Bot Sentinel Inc. (“Bot Sentinel”) in the above-captioned matter. I am admitted to practice before this Court, where I have been a member in good standing since 2003. The facts stated below are true and within my own personal knowledge, and, if called to testify, I could and would competently testify thereto.

2. I submit this declaration to place before the Court information and a document referenced in Defendants’ Memorandum of Law in Opposition to Plaintiff’s Motion for Sanctions (ECF No. 86) (the “Sanctions Opposition”).

3. In my experience, courts generally prefer that counsel and parties attempt to address disputed issues with a litigation adversary, including through pre-motion letters, prior to burdening the court with motions practice.

4. Such pre-motion letters are common in this District, and in fact are often required pursuant to the presiding judges’ Individual Practices.

5. Consistent with that view, on November 23, 2022, I filed an initial letter with the Court stating that, *inter alia*, Defendants would, pursuant to the Court's Individual Practices, imminently be sending Plaintiff Jason Goodman a pre-motion letter in advance of filing a motion to dismiss the Complaint. ECF No. 68.

6. On December 5, 2022, I sent Mr. Goodman that pre-motion letter (the "Pre-Motion Letter"), which Mr. Goodman attached as an exhibit to his Motion for Sanctions.

7. The same day, because my filing of my earlier November 23, 2022 letter to the Court for some reason did not prompt the ECF system to begin transmitting notices of electronic filing to me, and I wished to stay abreast of such filings, I filed a Notice of Appearance. ECF No. 73. The Notice of Appearance recited that I am "admitted or otherwise authorized to practice in this court." *Id.*

8. Early the next morning (December 6, 2022 at 6:50 a.m.), Mr. Goodman emailed me to object to the Pre-Motion Letter, and I responded a few hours later (December 6, 2022 at 12:42 p.m.). Mr. Goodman did not supply this email exchange to the Court with the instant motion. Accordingly, I attach hereto as Exhibit 1 a true and correct copy of that email exchange. The substance of that exchange is addressed in greater detail in the Sanctions Opposition.

9. Despite my efforts in that email exchange to explain that the Pre-Motion Letter was proper, later that night (December 6, 2022 at 11:43 p.m.) Mr. Goodman served a motion seeking sanctions under Rule 11 against my clients and me, and advised that he planned to file it in 21 days. Mr. Goodman then filed the motion for sanctions (the "Sanctions Motion") on December 27, 2022. ECF No. 86.

10. For the reasons explained in the Sanctions Opposition, I believe that Mr. Goodman's Motion for Sanctions is entirely meritless. I also respectfully submit that, without

requiring Mr. Goodman to pay Defendants' attorneys' fees under Federal Rule of Civil Procedure 11(c)(2), he will continue to file meritless Rule 11 motions, as he has done in other cases. Accordingly, the Sanctions Opposition seeks an award of Defendants' fees. I explain in the balance of this Declaration the basis for that request, including the rates charged and hours worked.

11. Ballard Spahr and its attorneys have earned a national reputation for the quality of the legal services we provide to our clients in defamation actions such as this one. For example, in 2023 – for the fourth time in six years – *Best Law Firms* named Ballard Spahr “Law Firm of the Year” for First Amendment litigation. Further information about the credentials and experience of our firm and its attorneys is available on Ballard Spahr’s website at [www.ballardspahr.com](http://www.ballardspahr.com).

12. Ballard Spahr was retained by Defendants in this matter in November 2022.

13. As a courtesy to Defendants and in recognition of the work they do identifying disinformation on the Internet and promoting healthy online discourse, Ballard Spahr agreed to discount its hourly rates for this matter by approximately twenty percent off of the firm’s standard hourly rates. We have also agreed to maintain our 2022 hourly rates in effect for this phase of this matter, even though we have otherwise raised our standard hourly rates effective January 1, 2023.

14. I am now in my 32nd year of law practice. My hourly rate for this matter is \$670, discounted from my 2022 standard hourly rate of \$835. Information about my background and experience can be found at <https://www.ballardspahr.com/people/attorneys/b/berlin-seth>.

15. I have principally worked on this matter with my colleague Maxwell S. Mishkin, an associate now in his ninth year of law practice. Mr. Mishkin’s hourly rate for this matter is

\$540, discounted from his 2022 standard hourly rate of \$700. Additional information about Mr. Mishkin can be found at <https://www.ballardspahr.com/people/attorneys/m/mishkin-max>.

16. Mr. Mishkin and I were assisted by paralegal Ryan Relyea, who has been a litigation paralegal for 15 years. Mr. Relyea's hourly rate for this matter is \$260, discounted from his 2022 standard hourly rate of \$310.

17. Based on our firm's contemporaneous billing records, since Mr. Goodman filed his Motion for Sanctions, I devoted 7.7 hours reviewing, editing, and drafting additional passages of the Sanctions Opposition and this declaration. Mr. Mishkin devoted 11.9 hours researching and serving as the principal drafter of the Sanctions Opposition and, under my direction, this declaration. Mr. Relyea devoted 2.5 hours cite-checking and blue-booking the Sanctions Opposition, and preparing it for filing.

18. Based on the above-described hourly rates and hours worked, the total fees incurred by Defendants in connection with responding to the Sanctions Motion are as follows:

<b>Name</b>	<b>Hours Worked</b>	<b>Discounted Hourly Rate</b>	<b>Fees</b>
Seth D. Berlin	7.7	\$670.00	\$5,159.00
Maxwell S. Mishkin	11.9	\$540.00	\$6,426.00
Ryan Relyea	2.5	\$260.00	\$650.00
<b>GRAND TOTAL</b>			<b>\$12,235.00</b>

19. Ballard Spahr has not incurred any separate out-of-pocket expenses in preparing the Sanctions Opposition or this declaration. In particular, for this matter, we have agreed not to charge Defendants separately for various out-of-pocket expenses, including routine copying, postage, telephone and fax charges, and, significantly, computerized legal research charges.

20. Based on my experience, and comparing this matter to other matters I have handled as well as other reported decisions involving awards of attorneys' fees, I respectfully

submit that the fees incurred in responding to the Sanctions Motion are reasonable. I respectfully request that the Court award Defendants those fees, in the amount of \$12,235.00, both to make them whole and to deter Mr. Goodman from filing further baseless motions.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 6, 2023

/s/ Seth D. Berlin  
Seth D. Berlin

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of January 2023, I caused true and correct copies of the foregoing Declaration of Seth D. Berlin in Opposition to the Motion for Sanctions (and the exhibit thereto) to be served by email and U.S. Mail First Class on the following:

Mr. Jason Goodman  
252 7th Ave., Apt. 6S  
New York, NY 10001  
truth@crowdsourcethetruth.org

*Pro Se Plaintiff*

Mr. George Webb Sweigert  
209 St. Simons Cove  
Peachtree City, GA 30269  
Georg.webb@gmail.com

*Pro Se Defendant*

/s/ Seth D. Berlin  
Seth D. Berlin (SB7978)